IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No: 302 of 2000

Date of decision: 17.8.2007

State of H.P. **Appellant**

Versus

Anant Ram and others **Respondents.**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1]

For the Appellant: Mr.J.S.Guleria, Law Officer

For the Respondents: Mr.Ashwani Sharma, Advocate

Deepak Gupta, J. (Oral)

This appeal by the State is directed against the judgment of Judicial Magistrate Ist Class, Hamirpur in Criminal Case No. 84-I-95 whereby the accused have been acquitted of having committed offence punishable under Sections 453/147/427 and 506 IPC.

The brief facts necessary for disposal of the case are that the complainant who is an Advocate was tenant of a shop under the accused. On 11.9.1994 he received information that the accused persons are dismantling the shop in which he was running his office.

---

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

He asked the accused to stop the dismantling, but they did not listen to him and in fact threatened him with dire consequences and threw his books, almirahs and furniture out of his office. The complainant thereafter lodged a report with the police, Ex. PA and the police came to the spot and prepared spot may Ex. PW-6/A. After completing investigation challan under Sections 453/147/427 was filed against the accused, who pleaded not guilty. Evidence was led. The learned court below came to the conclusion that the prosecution had failed to led any independent evidence to prove the offence.

PW-1 was the complainant himself who improved upon the version initially given by him to the police. The complainant had not mentioned that he had called PW-1 Manohar Lal and according to him Manohar Lal had come of his own accord. However, Manohar Lal stated that he had been called by the accused. PW Manohar Lal is also client of the complainant. There are improvements in his statement in court vis-à-vis the statement made before the police.

PW-4 Hoshiar Singh is the clerk of the complainant in whose presence possession of Jhabbal and hammer was taken. The admitted fact is that even

according to the prosecution a large number of people had collected at the site, despite this no independent witness was examined. There are improvements in the statement of the witnesses in court. The statement of complainant has not been properly corroborated by the other witnesses. No doubt conviction can be based on the statements of some witnesses and it is not necessary in all cases to examine independent witnesses. However, in the present case admittedly independent witnesses were available. No explanation has come forth as to why these independent witnesses were not examined. The only witnesses examined were the client and clerk of the complainant who was an Advocate. There are other material contradictions in the statements of the prosecution witnesses. The order of acquittal recorded by the learned court below is based on the evidence led before it and calls for no interference. The appeal is without merit and is, therefore, dismissed. The bail bonds of the accused are discharged.

August 17, 2007(K) (Deepak Gupta), J.